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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,035

10/20/2005

Leonardus Cornelis Antonius Van Stuivenberg

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

DANIELS, ANTHONY J

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

12/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,035	Applicant(s) VAN STUIVENBERG ET AL.	
	Examiner ANTHONY J. DANIELS	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

1. **Please include Section headings in the disclosure.**

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tay (US 2003/0085989) in view of the Nokia 6610 User Guide (see attached NPL).

As to claim 1, Tay teaches a device (100) for multimedia communication (Figure 1, mobile communication device “100”), comprising: capture means (121) for capturing a sample (133) of a multimedia content (136) ([0014], Lines 6-8, “...digital imaging unit...”); and control means (110) (Figure 1, snap button “80”) for controlling the capture means (121), such that the sample (133) is captured and added to the transmitted to pre-designated recipient in response to a single activation (130) of the control means (110) ([0017], Lines 4-6). The claim differs from Tay in that it further requires processing means (122) for processing a message (134) and that the sample is added to the message in response to the single activation.

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In the same field of endeavor, the Nokia 6610 User Guide discloses a cellular telephone wherein a captured image can be inserted in to a message and sent to a designated recipient (p.60). In light of the teaching of the Nokia 6610 User Guide, it would have been obvious to one of ordinary skill in the art to include the ability to send the image of Tay via a text message, because an artisan of ordinary skill in the art would recognize that this would allow for a simple, effective medium through which the image can be transferred.

Remarks about the rejection of claim 1: Although the Nokia 6610 User Guide does not explicitly state that the image is inserted into the message in response to a single activation of a control means, the examiner submits that the teachings of the Nokia 6610 User Guide taken in the context of the Tay teachings meets this limitation. More specifically, Tay is rather vague in regard to the events that occur from image capture to image transmission when, in reality, a multitude of events occur. Given that sending images via text messages is a well known concept and occurs between capture and transmission, the examiner submits that Tay's endeavor of simple initiation of capture and transmission would not be hindered if the image were to be sent via a text message.

As to claim 2, Tay, as modified by the Nokia 6610 User Guide, teaches a device (100) as claimed in claim 1, wherein the device (100) further comprises dispatching means (123) for dispatching the message (134) with the sample (133) added in response to the single activation (130) (see Tay, [0017], Lines 4-6).

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As to claim **3**, Tay, as modified by the Nokia 6610 User Guide, teaches a device (100) as claimed in claim 1, wherein the capture means (121) comprise a camera (Figure 1, digital imaging unit “), and the sample (133) comprises a photo ([0014], Line 7, “...still image...”).

As to claim **4**, Tay, as modified by the Nokia 6610 User Guide, teaches a device (100) as claimed in claim 1, wherein the device (100) comprises a mobile phone (see Tay, Figure 1).

As to claims **7** and **8**, claims 7 and 8 are method claims corresponding to the apparatus claims 1 and 2, respectively. Therefore, claims 7 and 8 are analyzed and rejected as previously discussed with respect to claims 1 and 2, respectively.

2. Claims 5,6,9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tay (US 2003/0085989) in view of the Nokia 6610 User Guide (see attached NPL) and further in view of the operation of AOL Instant Messenger (see attached NPL) .

As to claims **5** and **6**, Tay, as modified by the Nokia 6610 User Guide, teaches a device (100) as claimed in claim 2. The claim differs from Tay, as modified by the Nokia User Guide, in that it further requires that the message (134) comprise a command for controlling a communication session, and an invitation for a communication session.

Being reasonably pertinent to the problem which Applicant is concerned, AOL instant messenger allows a user to send an invitation for a communication session. The recipient of the invitation can accept or reject the invitation, and if the invitation is accepted, the communication session begins (see attached NPL). In light of the teaching of AOL instant messenger, it would have been obvious to one of ordinary skill in the art to include this feature of communication in

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the system of Tay, because an artisan of ordinary skill in the art would recognize that this would allow a recipient to reject suspicious invitations and accept those that are known to be safe.

As to claims **9** and **10**, Tay, as modified by the Nokia 6610 User Guide, teaches a method as claimed in claim 8. The claim differs from Tay, as modified by the Nokia 6610 User Guide, in that it further requires that the message (134) comprise a command for controlling a communication session and an invitation for a communication session, and that the method comprise the step of controlling the communication session in dependence upon the control command and the step of establishing the communication session in response to accepting the invitation.

Being reasonably pertinent to the problem which Applicant is concerned, AOL instant messenger allows a user to send an invitation for a communication session. The recipient of the invitation can accept or reject the invitation, and if the invitation is accepted, the communication session begins (see attached NPL). In light of the teaching of AOL instant messenger, it would have been obvious to one of ordinary skill in the art to include this feature of communication in the system of Tay, because an artisan of ordinary skill in the art would recognize that this would allow a recipient to reject suspicious invitations and accept those that are known to be safe.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner cites an review article from Mobicledia supporting a priority date for the Nokia 6610.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. DANIELS whose telephone number is (571)272-7362. The examiner can normally be reached on 8:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AD

12/19/2008

/Sinh N Tran/

Supervisory Patent Examiner, Art Unit 2622